IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1405 (S/B) of 2002

P.D. Dobariyal S/o Sri Hari Dutt Dobariyal,
R/o 1/134, Brahman Mohalla, Srinagar, Garhwal
..... Petitioner

Versus

1. District Industrial Centre through its General Manager, Dehradun
2. Joint Director Industries Garhwal Mandal, Dehradun
3. Director of Industries, Uttarnchal Shasan, Dehradun
4. Financial Controller Industries U.P., Kanpur

..... Respondents

Sri Sharad Sharma, learned counsel for the petitioner
Ms. Beena Pandey, learned standing counsel for the State of U.P.

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

Dated: March 08, 2006

By means of this writ petition, the petitioner has prayed for the following reliefs:-

1. To issue writ order or direction in the nature of mandamus commanding the respondents to hold the entire enquiry afresh after providing an opportunity to the petitioner.
2. To issue writ order or direction in the nature of mandamus commanding the respondents to reimburse Rs. 2,61,499/- the amount recovered in excess to the actual amount due to be recovered from the petitioner.
3. To issue a suitable writ order or direction as the Court may deem fit and proper under the circumstances of the case.
4. Award the cost of the petition to the petitioner.

2. The petitioner has made the above prayers on the ground that no fair enquiry was held and the amount sought to be recovered is the outcome of that inquiry, therefore, the amount sought to be recovered may be stayed till the report of fresh inquiry is received.

3. In this case, the departmental inquiry was held against the petitioner and after the inquiry report, the punishing authority found that the petitioner was guilty of amount sought to be recovered. According to the petitioner, the excess amount of Rs.2,61,499/- has been recovered from him. In fact the amount which was found to be recoverable from the petitioner was based on the inquiry report submitted by the inquiry officer. Therefore, in view of the version of the petitioner, it cannot be said that the amount in excess has been paid by him.

4. So far the fresh inquiry report is concerned, that also cannot be held for the reason that the recovery of amount found due is a minor punishment and is recoverable by calling an explanation from the petitioner.

5. Here the full-fledged departmental inquiry has been held in which the petitioner has participated and the amount was found due against him, therefore in view of the aforesaid facts both the prayers cannot be granted to the petitioner.

6. In view of the above, the writ petition is devoid of merit and is hereby dismissed. However, it is made clear that after the recovery of the full amount, the pension of the petitioner and other post retrial dues shall be clear within a period of one month from the date of production of certified copy of this order.

(B.C.Kandpal, J.) **(P.C.Verma,J.)**

Rajeev Dang